

Exhibit 5

United States of America ex rel. Ven-A-Care of the Florida Keys, Inc., et al.
v. Dey, Inc., et al., Civil Action No. 05-11084-PBS

**Exhibit to the August 28, 2009 Declaration of Sarah L. Reid
In Support of Defendants' Common Opposition to Plaintiffs'
Motion for Partial Summary Judgment**

Washington, DC

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1 UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MASSACHUSETTS

3 - - - - -

4 IN RE: PHARMACEUTICAL) MDL NO. 1456

5 INDUSTRY AVERAGE WHOLESAL) CIVIL ACTION

6 PRICE LITIGATION) 01-CV-12257-PBS

7)

8 THIS DOCUMENT RELATES TO)

9 U.S. ex rel. Ven-a-Care of) Judge Patti B. Saris

10 the Florida Keys, Inc.)

11 v.) Chief Magistrate

12 Abbott Laboratories, Inc.,) Judge Marianne B.

13 No. 06-CV-11337-PBS) Bowler

14 - - - - -

15

16 Videotaped deposition of MARK G. DUGGAN, PH.D.

17 Volume II

18

19 Washington, D.C.

20 Tuesday, May 19, 2009

21 9:30 a.m.

22

1 how spending would have changed.

2 And so my analysis calculates how --
3 this is sort of, once again, touching on this
4 knowledge of government officials issue. And it's
5 really -- that just wasn't the focus of my
6 analysis.

7 Q. Is it your understanding that what Dr.
8 Hughes is saying there -- just to try to
9 paraphrase just to move along -- is that he's
10 saying that your difference calculation assumption
11 that states would have used much lower prices in
12 calculating ingredient prices if they were
13 available?

14 A. It assumes that state agencies would
15 have used the AWP's when adjudicating the claims,
16 the alternative AWP's.

17 Q. And I think we covered this at length in
18 your prior deposition so I don't want to belabor
19 it here. But you've agreed that whether states
20 would have used much lower prices in adjudicating
21 ingredient cost reimbursements is an assumption in
22 your report, correct?